**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 16495 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**CHAMPA JYOT MINERALS - Petitioner(s)**
**Versus**
**THE STATE OF GUJARAT & 3 - Respondent(s)**

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**Appearance :**
MR PM THAKKAR Ld. Sr. Adv. for M/S THAKKAR ASSOC. for Petitioner: 1,
MR HEMANG PARIKH A.G.P. for Respondent(s) : 1 - 3.
None for Respondent(s) : 4,

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**CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

**Date : 28/06/2007**

**ORAL JUDGMENT**

1. **RULE**. Mr. Parikh learned A.G.P., waives service of rule on behalf of the respondents. At the request of the learned advocates for the parties, the matter is

taken up for final hearing today itself.

2. The petitioner had applied for renewal of mining lease. The petitioner was issued notice intimating that the date of hearing was fixed on 15th May, 2007. However, the said notice was received by the petitioner on 17th May, 2007. In view of the same, the petitioner could not remain present before the authority. On 22nd May, 2007, the impugned order was passed by respondent no. 1. It was observed therein that there was delay in submitting the application. It was further observed that the petitioner was given opportunity of personal hearing by fixing the date of hearing on 15th May, 2007, but on that day the petitioner neither remained present nor he submitted the written reply. The application was not granted on the ground that there was delay in submitting it.

3. I have heard Mr. P.M. Thakkar learned Senior Advocate for the petitioner and Mr. Hemang Parikh learned A.G.P., for the respondents. I have also perused the record of this petition. It transpire from the documents annexed to the petition that by letter dated 2nd March, 2002, the respondent was intimated about the change of address. The said communication was received by respondent no. 3 on that very day i.e., 2nd March, 2002,

as can be seen from the endorsement made on it. However, the notice calling upon the petitioner to remain present before respondent no. 1 on 15th May, 2007 was desptached at the old address. It was only when the communication was redirected to the new address, the petitioner received it, but by that time the date of hearing was already over. The notice was received by the petitioner on 17th May, 2007 and, therefore, the petitioner could not remain present on 15th May, 2007 before the concerned authority. The impugned order was passed on 22nd May, 2007, obviously without hearing the petitioner. It is, therefore, clear that the said order was passed in violation of principles of natural justice. In view of the same, it is required to be quashed and it is hereby quashed and set aside. The matter is remanded to respondent no. 1 to take a decision afresh after granting adequate opportunity to the petitioner.

3.1. Respondent no. 1 is directed to issue notice to the petitioner at least one week in advance intimating the date of hearing to the petitioner. Upon hearing the petitioner and considering the material that may be produced by the petitioner, respondent no. 1 shall take appropriate decision strictly on merits of the case and in accordance with law. The decision that may be taken by

the respondent be intimated to the petitioner within 15 days from the date of the decision. The entire exercise to be completed on or before 30th September, 2007.

4. With the aforesaid, rule is made absolute. No order as to costs.

[Akshay H. Mehta, J.]

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